

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CHAPTER 11

BLACK SHEEP FOOD GROUP, LLC

CASE NO. 17-04372-5-JNC

Debtor.

**MOTION FOR SANCTIONS FOR CONTEMPT OF COURT AGAINST FUNDBOX,
INC.**

NOW COMES Black Sheep Food Group, LLC, Debtor in the above-referenced case (hereinafter “Debtor”), by and through undersigned counsel, and pursuant to Federal Rule of Bankruptcy 2004, respectfully moves the Court to enter an Order finding Fundbox, Inc. (hereinafter, “Fundbox”), in contempt of court and imposing monetary sanctions. In support of this Motion, Debtor shows unto the Court the following:

1. Debtor filed a voluntary petition pursuant to Chapter 11 of the Bankruptcy Code on September 6, 2017.
2. Debtor did not list Fundbox as a creditor in its petition having a claim against Debtor’s estate.
3. Debtor believes that it has a claim against Fundbox arising out of a loan agreement between Debtor and Fundbox, under which Fundbox made a short-term loan to Debtor in return for payments made on the loan by Debtor at a high interest rate.
4. Debtor believes that it paid Fundbox nine payments totaling \$12,756.82 in the ninety (90) days prior to filing for bankruptcy relief.
5. On motion of the Debtor, this Court entered an order on May 10, 2018, directing Fundbox to produce the following documents to counsel for the Debtor by June 1, 2018:

- A. Any loan agreements, including promissory notes and security agreements, made between Debtor and Fundbox, its subsidiaries, affiliates, parent companies, or any related entities.
- B. An accounting of payments made on Debtor's account to Fundbox, its agents, subsidiaries, affiliates, for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.
- C. Any and all correspondence between Fundbox, its agents, subsidiaries, affiliates, and Debtor for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.
- D. Any and all documents in the possession of Fundbox, its agents, subsidiaries, affiliates, referring to the Debtor.

6. Fundbox failed to produce any documents or otherwise respond by June 1, 2018.
7. On June 12, 2018, the undersigned counsel for the Debtor sent a demand letter (attached hereto as Exhibit A) with a copy of this Court's May 10, 2018, order for the production of documents to Fundbox by email and mail. In the letter, Debtor's counsel demanded production of the documents by June 18, 2018.
8. Fundbox failed to produce any documents or otherwise respond by June 18, 2018.
9. Fundbox is in willful violation of this Court's May 10, 2018, order directing Fundbox to produce documents to the Debtor pursuant to Rule 2004.

10. As a result of Fundbox's willful violation of this Court's May 10, 2018, order, the Debtor has incurred additional legal fees drafting the demand letter, researching corporate records for current contact information for Fundbox, and drafting this motion.

11. In addition, without the information which Fundbox was ordered to produce, the Debtor has been unable to determine the priority of security interests in Debtor's assets, and has had to delay resolution of at least two claims and filing adversary proceedings to recover fraudulent transfers.

WHEREFORE, Debtor respectfully requests that the Court enter an Order:

1. Finding Fundbox in contempt of court for willfully violating this Court's May 10, 2018, order for the production of documents;
2. Imposing appropriate sanctions against Fundbox, including payment of Debtor's attorneys' fees incurred in connection with this matter; and,
3. For such other relief as this Court deems just and proper.

Respectfully submitted, this the 18th day of July, 2018.

JANVIER LAW FIRM

s/ Kathleen O'Malley
Kathleen O'Malley
N.C. State Bar No. 51654
Attorneys for Debtors
311 E. Edenton St.
Raleigh, North Carolina 27601
Telephone: (919) 582-2323
Facsimile: (866) 809-2379
Email: kathleen@janvierlaw.com



William F. Braziel III**
bbraziel@janvierlaw.com

William E. Brewer, Jr.*
wbrewer@janvierlaw.com

Erin K. Duffy
erin@janvierlaw.com

JANVIER LAW FIRM

PLLC

*Board Certified Specialist
in Consumer Bankruptcy

William P. Janvier**
bill@janvierlaw.com

Samantha Y. Moore
samantha@janvierlaw.com

Kathleen M. O'Malley
kathleen@janvierlaw.com

**Board Certified Specialist in
Business and Consumer Bankruptcy

June 12, 2018

VIA EMAIL and FIRST-CLASS MAIL

Fundbox, Inc.
300 Montgomery Street
San Francisco, CA 94104
EMAIL: legal@fundbox.com

Re: Black Sheep Food Group, LLC
Eastern District of NC Case No. 17-04372-5-JNC

Dear Sir/Madam:

This letter is to inform you that you are in violation of the enclosed Court order requiring Fundbox, Inc. to produce documents to this office by June 1, 2018. This firm represents Black Sheep Food Group, LLC, Debtor in Eastern District of NC bankruptcy case no. 17-04372-5-JNC. On May 10, 2018, the Honorable Joseph N. Callaway, United States Bankruptcy Judge, issued the enclosed order requiring Fundbox, Inc. to produce documents regarding the Debtor Black Sheep Food Group, LLC. Despite the Court order, Fundbox has not produced any documents to this office.

Please be aware that if this office does not receive the information ordered to be produced by Fundbox, Inc. by **Monday, June 18, 2018**, Black Sheep Food Group will seek to hold Fundbox, Inc. in contempt of court for violation of the May 11 Court order. If you have any questions, please do not hesitate to call or email.

Sincerely,

Kathleen O'Malley

Case 17-04372-5-JNC Doc 209 Filed 05/10/18 Entered 05/10/18 14:23:11 Page 1 of 2

SO ORDERED.

SIGNED this 10 day of May, 2018.




Joseph N. Callaway
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CHAPTER 11

BLACK SHEEP FOOD GROUP, LLC

CASE NO. 17-04372-5-JNC

Debtor

ORDER ON MOTION FOR PRODUCTION OF DOCUMENTS UNDER RULE 2004

THIS MATTER having come before the Court upon Debtors' Motion for Production of Documents Under Rule 2004, and for good cause shown,

IT IS ORDERED that Fundbox, Inc. (hereinafter "Fundbox") shall produce the following documents to Debtor at the offices of the Janvier Law Firm, 311 E. Edenton Street, Raleigh, North Carolina 27601 on or before June 1, 2018:

- A. Any loan agreements, including promissory notes and security agreements, made between Debtor and Fundbox, its subsidiaries, affiliates, parent companies, or any related entities.
- B. An accounting of payments made on Debtor's account to Fundbox, its agents, subsidiaries, affiliates, for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.

- C. Any and all correspondence between Fundbox, its agents, subsidiaries, affiliates, and Debtor for a period of one year prior to filing the petition for bankruptcy on September 6, 2017.
- D. Any and all documents in the possession of Fundbox, its agents, subsidiaries, affiliates, referring to the Debtor.

END OF DOCUMENT

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CHAPTER 11

Black Sheep Food Group, LLC,

CASE NO. 17-04372-5-JNC

Debtor.

NOTICE OF MOTION FOR SANCTIONS FOR CONTEMPT OF COURT

NOTICE IS HEREBY GIVEN OF Debtor's Motion for Sanctions for Contempt of Court against Fundbox, Inc., for willful violation of a court order.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not want the court to grant the relief sought in the objection, or if you want the court to consider your views on the objection, then within **fourteen (14)** days of the date of this Notice, you or your attorney must file with the court, pursuant to Local Rule 9014-1, a written response, an answer explaining your position, and a request for hearing at:

Ms. Stephanie Butler
Clerk, U.S. Bankruptcy Court
300 Fayetteville Street, Fourth Floor
P.O. Box 791
Raleigh, NC 27602

If you mail your request or response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. You must also send a copy to the undersigned attorney for the Debtor.

If a response and request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the objection at a date, time and place to be later set and all parties will be notified accordingly. If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

This the 18th day of July, 2018.

JANVIER LAW FIRM, PLLC

s/ Kathleen O'Malley

Kathleen O'Malley, Bar No. 51654
William P. Janvier, Bar No: 21136
311 E. Edenton Street
Raleigh, NC 27601
Telephone: (919) 582-2323
Facsimile: (866) 809-2379
Email: kathleen@janvierlaw.com

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a copy of the foregoing **NOTICE AND MOTION FOR SANCTIONS FOR CONTEMPT OF COURT** has been served upon each of the parties listed below by placing copies of the same in the United States mail, postage prepaid or electronically as indicated, this the 18th day of July, 2018.

Marjorie K. Lynch (via CM/ECF)
Bankruptcy Administrator, EDNC
434 Fayetteville Street, Suite 640
Raleigh, NC 27601

Black Sheep Food Group, LLC
1060 Darrington Drive
Cary, NC 27513

Fundbox, Inc. (Via U.S. Mail and email)
ATTN: Managing Agent
300 Montgomery Street
San Francisco, CA 94104

JANVIER LAW FIRM

s/ Kathleen O'Malley
Kathleen O'Malley
N.C. State Bar No. 51654
William P. Janvier
N.C. State Bar No. 21136
Attorneys for Debtors
311 E. Edenton St.
Raleigh, North Carolina 27601
Telephone: (919) 582-2323
Facsimile: (866) 809-2379
Email: kathleen@janvierlaw.com